

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

ADIDAS AMERICA, INC., a Delaware  
corporation,

Civil No. CV-08-91-ST

Plaintiff and Counterclaim  
Defendant,

v.

SUMMARY JUDGMENT  
ADVICE NOTICE TO *PRO SE*  
DEFENDANT, MICHAEL CALMESE

MICHAEL D. CALMESE, a resident of  
Arizona,

Defendant and Counterclaimant.

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STEWART, Magistrate Judge:

The plaintiff has filed a Motion for Summary Judgment (docket #42), by which it seeks to be granted judgment in its favor on each of its claims, and against each of your counterclaims. This motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end the case in plaintiff's favor.

Federal Rule of Civil Procedure 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact – that is, if there is no real dispute about any fact that would

affect the result of the case, and the party who asked for summary judgment is entitled to judgment as a matter of law, summary judgment will be granted which will end the case. When a party suing you files a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your Answer and Counterclaims says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Federal Rule of Civil Procedure 56(e), that contradict the facts shown in the plaintiff's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, the case will end and there will be no trial.

Local Rule 56.1 of the District Court for the District of Oregon normally requires that the party moving for summary judgment file a separate Concise Statement of Material Facts. However, that requirement was waived in this case. Minute Order (docket #12). Nevertheless, as part of your opposition to plaintiff's motion for summary judgment, you must respond to the plaintiff's facts by: (1) accepting or denying the facts contained in the plaintiff's submittals, or (2) articulating opposition to the plaintiff's contention of interpretation of the undisputed material facts. You are advised that material facts set forth in the plaintiff's submittals may be deemed admitted unless specifically denied, or otherwise controverted by you.

DATED this 1<sup>st</sup> day of December, 2008.

/s/ Janice M. Stewart  
JANICE M. STEWART  
United States Magistrate Judge